

LEVEY, FILLER, RODRIGUEZ, KELSO & DEBIANCHI, LLP  
Attorneys for Plaintiff  
41-26 27<sup>th</sup> Street  
Suite 3D  
Long Island City, NY 11101  
TEL (718) 340-2614

/s/ David F. Filler (DF-6850)

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----  
PARK AVENUE CONSULTING GROUP INC., )  
Returnable \_\_\_\_\_ 2008  
Plaintiff, ) 10:00 a. m. Room 21B  
v. ) Civil Action No.08 Civ. 1850 (CM) (GWG)  
NEWGOLD INC. and FIRSTGOLD CORP. )  
Defendants, ) NOTICE OF MOTION  
-----

To: BLAIR & ROACH, LLP  
Attorneys for Defendants  
2645 Sheridan Drive  
Tonawanda, New York 14150

PLEASE TAKE NOTICE that Plaintiff Park Avenue Consulting Group Inc. by its undersigned attorney, pursuant to Federal Rule of Civil Procedure Rules 7.; 12.(a)(4)(B)(f)(2) and ¶ 2 D., Individual Practices of Judge McMahon, revised 2/3/2006, and based on the accompanying affirmation of David Filler and the Memorandum of Law, will bring a motion on for hearing before this Court at Room 21B, United States Court House, 500 Pearl Street, City of New York with no designated return date. In accordance with said Rule 2. D., answering papers or motions are to be served within two weeks of the receipt date of this Notice of Motion and filed promptly thereafter.

The relief sought is the striking of all of the Affirmative Defenses as set forth in the Answer that Defendants served and filed with the Clerk of this Court or alternatively striking the Second Defense (laches); Fourth Defense (limitations); and, Seventh Defense (personal jurisdiction) as lacking any basis in fact or law.

The grounds for the relief sought are set forth in the annexed affirmation of Filler and the accompanying Memorandum.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was provided by \_\_\_\_\_ U.S. Mail / \_\_\_\_\_ Fax Transmission /  X  Electronic Transmission to J. Michael Lennon, Esq. Blair & Roach, LLP 2645 Sheridan Drive, Tonawanda, New York 14150 on this 30<sup>th</sup> Day of April 2008.

LEVEY, FILLER, RODRIGUEZ,  
KELSO & DEBIANCHI, LLP  
Attorneys for Plaintiff  
41-26 27<sup>th</sup> Street  
Suite 3D  
Long Island City, NY 11101  
TEL (718) 340-3614  
Email [dfiller@leveyfiller.com](mailto:dfiller@leveyfiller.com)  
FAX (718) 340-3615

By: s/ David Filler  
David F. Filler (Bar No. DF- 6850)

Courtesy Copy Sent by FED EX to:

Hon. Colleen McMahon,  
U. S. District Court Judge  
U. S. District Court  
Southern District of New York  
500 Pearl Street  
21-B  
New York, NY 10007-1312